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(f) Salmon Bycatch Management in the BS Pollock Fishery

- (1) **Applicability.** This paragraph contains regulations governing the bycatch of salmon in the BS pollock fishery.
- (2) **Chinook salmon prohibited species catch (PSC) limit.** Each year, NMFS will allocate to AFA sectors listed in paragraph (f)(3)(ii) of this section a portion of the applicable Chinook salmon PSC limit. NMFS will publish the applicable Chinook salmon PSC limit in the annual harvest specifications after determining if it is a low Chinook salmon abundance year. NMFS will determine that it is a low Chinook salmon abundance year when abundance of Chinook salmon in western Alaska is less than or equal to 250,000 Chinook salmon. By October 1 of each year, the State of Alaska will provide to NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping.

 - (i) An AFA sector will receive a portion of the 47,591 Chinook salmon PSC limit, or, in a low Chinook salmon abundance year, the 33,318 Chinook salmon PSC limit, if –

 - (A) No Chinook salmon bycatch incentive plan agreement (IPA) is approved by NMFS under paragraph (f)(12) of this section; or
 - (B) That AFA sector has exceeded its performance standard under paragraph (f)(6) of this section.
 - (ii) An AFA sector will receive a portion of the 60,000 Chinook salmon PSC limit, or, in a low Chinook salmon abundance year, the 45,000 Chinook salmon PSC limit, if–

 - (A) At least one IPA is approved by NMFS under paragraph (f)(12) of this section; and
 - (B) That AFA sector has not exceeded its performance standard under paragraph (f)(6) of this section.
- (3) **Allocations of the Chinook salmon PSC limits –**

- (i) **Seasonal apportionment.** NMFS will apportion the Chinook salmon PSC limits annually 70 percent to the A season and 30 percent to the B season, which are described in § 679.23(e)(2).
- (ii) **AFA sectors.** Each year, NMFS will make allocations of the applicable Chinook salmon PSC limit to the following four AFA sectors:

AFA Sector:	Eligible participants are:
(A) Catcher/processor	AFA catcher/processors and AFA catcher vessels delivering to AFA catcher/processors, all of which are permitted under § 679.4(l)(2) and (l)(3)(i)(A), respectively.
(B) Mothership	AFA catcher vessels harvesting pollock for processing by AFA motherships, all of which are permitted under § 679.4(l)(3)(i)(B) and (l)(4), respectively.
(C) Inshore	AFA catcher vessels harvesting pollock for processing by AFA inshore processors, all of which are permitted under § 679.4(l)(3)(i)(C).
(D) CDQ Program	The six CDQ groups authorized under section 305(i)(1)(D) of the Magnuson-Stevens Act to participate in the CDQ Program.

- (iii) **Allocations to each AFA sector.** NMFS will allocate the Chinook salmon PSC limits to each AFA sector as follows:
- (A) If a sector is managed under the 60,000 Chinook salmon PSC limit, the maximum amount of Chinook salmon PSC allocated to each sector in each season and annually is—

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(1) Catcher/processor	32.9	13,818	17.9	3,222	28.4	17,040
(2) Mothership	8.0	3,360	7.3	1,314	7.8	4,674
(3) Inshore	49.8	20,916	69.3	12,474	55.6	33,390

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(4) CDQ Program	9.3	3,906	5.5	990	8.2	4,896

(B) If the sector is managed under the 45,000 Chinook salmon PSC limit, the sector will be allocated the following amount of Chinook salmon PSC in each season and annually:

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(1) Catcher/ processor	32.9	10,363	17.9	2,415	28.4	12,780
(2) Mothership	8.0	2,520	7.3	987	7.8	3,510
(3) Inshore	49.8	15,687	69.3	9,355	55.6	25,020
(4) CDQ Program	9.3	2,930	5.5	743	8.2	3,690

(C) If the sector is managed under the 47,591 Chinook salmon PSC limit, the sector will be allocated the following amount of Chinook salmon PSC in each season and annually:

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(1) Catcher/ processor	32.9	10,906	17.9	2,556	28.4	13,516
(2) Mothership	8.0	2,665	7.3	1,042	7.8	3,707
(3) Inshore	49.8	16,591	69.3	9,894	55.6	26,485

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(4) CDQ Program	9.3	3,098	5.5	785	8.2	3,883

- (D) If the sector is managed under the 33,318 Chinook salmon PSC limit, the sector will be allocated the following amount of Chinook salmon PSC in each season and annually:

AFA sector	A season		B season		Annual total	
	% Allocation	# of Chinook	% Allocation	# of Chinook	% Allocation	# of Chinook
(1) Catcher/ processor	32.9	7,673	17.9	1,789	28.4	9,462
(2) Mothership	8.0	1,866	7.3	730	7.8	2,599
(3) Inshore	49.8	11,615	69.3	6,926	55.6	18,525
(4) CDQ Program	9.3	2,169	5.5	550	8.2	2,732

(iv) **Allocations to the AFA catcher/processor and mothership sectors.**

- (A) NMFS will issue transferable Chinook salmon PSC allocations under paragraph (f)(3)(iii) of this section to entities representing the AFA catcher/processor sector and the AFA mothership sector if these sectors meet the requirements of paragraph (f)(8) of this section.
- (B) If no entity is approved by NMFS to represent the AFA catcher/processor sector or the AFA mothership sector, then NMFS will manage that sector under a non-transferable Chinook salmon PSC allocation under paragraph (f)(10) of this section.

(v) **Allocations to inshore cooperatives and the AFA inshore open access fishery.** NMFS will further allocate the inshore sector's Chinook salmon PSC allocation under paragraph (f)(3)(iii) of this section among the inshore cooperatives and the inshore open access fishery based on the percentage allocations of pollock to each inshore cooperative under § 679.62(a). NMFS will issue transferable Chinook salmon PSC allocations to inshore cooperatives. Any Chinook salmon PSC allocated to the inshore open access fishery will be as a non-transferable allocation managed by NMFS under the requirements of paragraph (f)(10) of this section.

(vi) **Allocations to the CDQ Program.** NMFS will further allocate the Chinook salmon PSC allocation to the CDQ Program under paragraph (f)(3)(iii) of this section among the six CDQ groups based on each CDQ group's percentage of the CDQ Program pollock allocation. NMFS will issue transferable Chinook salmon PSC allocations to CDQ groups.

(vii) *Accrual of Chinook salmon bycatch to specific PSC allocations.*

If a Chinook salmon PSC allocation is:	Then all Chinook salmon bycatch:
(A) A transferable allocation to a sector-level entity, inshore cooperative, or CDQ group under paragraph (f)(8) of this section	By any vessel fishing under a transferable allocation will accrue against the allocation to the entity representing that vessel.
(B) A non-transferable allocation to a sector or the inshore open access fishery under paragraph (f)(10) of this section	By any vessel fishing under a non-transferable allocation will accrue against the allocation established for the sector or inshore open access fishery, whichever is applicable.
(C) The opt-out allocation under paragraph (f)(5) of this section	By any vessel fishing under the opt-out allocation will accrue against the opt-out allocation.

(viii) *Public release of Chinook salmon PSC information.* For each year, NMFS will release to the public and publish on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>):

- (A) The Chinook salmon PSC allocations for each entity receiving a transferable allocation;
- (B) The non-transferable Chinook salmon PSC allocations;
- (C) The vessels fishing under each transferable or non-transferable allocation;
- (D) The amount of Chinook salmon bycatch that accrues towards each transferable or non-transferable allocation;
- (E) Any changes to these allocations due to transfers under paragraph (f)(9) of this section, rollovers under paragraph (f)(11) of this section, and deductions from the B season non-transferable allocations under paragraphs (f)(5)(v) or (f)(10)(iii) of this section; and
- (F) Tables for each sector that provide the percent of the sector's pollock allocation, numbers of Chinook salmon associated with each vessel in the sector used to calculate the opt-out allocation and annual threshold amounts, and the percent of the pollock allocation associated with each vessel that NMFS will use to calculate IPA minimum participation assigned to each vessel.

(4) *Reduction in allocations of the Chinook salmon PSC limit –*

- (i) *Reduction in sector allocations.* NMFS will reduce the seasonal allocation of the Chinook salmon PSC limit to the catcher/processor sector, the mothership sector, the inshore sector, or the CDQ Program under paragraph (f)(3)(iii)(A) or (B) of this section, if the owner of any permitted AFA vessel in that sector, or any CDQ group, does not participate in an approved IPA under paragraph (f)(12) of this section. NMFS will subtract the amount of Chinook salmon from each sector's allocation associated with each vessel not participating in an approved IPA.
- (ii) *Adjustments to the inshore sector and inshore cooperative allocations.*

- (A) If some members of an inshore cooperative do not participate in an approved IPA, NMFS will reduce the allocation to the cooperative to which those vessels belong, or the inshore open access fishery.
- (B) If all members of an inshore cooperative do not participate in an approved IPA, the amount of Chinook salmon that remains in the inshore sector's allocation, after subtracting the amount of Chinook salmon associated with the non-participating inshore cooperative, will be reallocated among the inshore cooperatives participating in an approved IPA based on the proportion each participating cooperative represents of the Chinook salmon PSC initially allocated among the participating inshore cooperatives that year.
- (iii) **Adjustment to CDQ group allocations.** If a CDQ group does not participate in an approved IPA, the amount of Chinook salmon that remains in the CDQ Program's allocation, after subtracting the amount of Chinook salmon associated with the non-participating CDQ group, will be reallocated among the CDQ groups participating in an approved IPA based on the proportion each participating CDQ group represents of the Chinook salmon PSC initially allocated among the participating CDQ groups that year.
- (iv) **All members of a sector do not participate in an approved IPA.** If all members of a sector do not participate in an approved IPA, the amount of Chinook salmon that remains after subtracting the amount of Chinook salmon associated with the non-participating sector will not be reallocated among the sectors that have members participating in an approved IPA. This portion of the PSC limit will remain unallocated for that year.

(5) **Chinook salmon PSC opt-out allocation.** The following table describes requirements for the opt-out allocation:

(i) What is the amount of Chinook salmon PSC that will be allocated to the opt-out allocation in the A season and the B season?	The opt-out allocation will equal the sum of the Chinook salmon PSC deducted under paragraph (f)(4)(i) of this section from the seasonal allocations of each sector with members not participating in an approved IPA.
(ii) Which participants will be managed under the opt-out allocation?	Any AFA-permitted vessel or any CDQ group that is a member of a sector eligible under paragraph (f)(2)(ii) of this section to receive allocations of the 60,000 PSC limit or the 45,000 PSC limit, but that is not participating in an approved IPA.
(iii) What Chinook salmon bycatch will accrue against the opt-out allocation?	All Chinook salmon bycatch by participants under paragraph (f)(5)(ii) of this section.
(iv) How will the opt-out allocation be managed?	All participants under paragraph (f)(5)(ii) of this section will be managed as a group under the seasonal opt-out allocations. If the Regional Administrator determines that the seasonal opt-out allocation will be reached, NMFS will publish a notice in the FEDERAL REGISTER closing directed fishing for pollock in the BS, for the remainder of the season, for all vessels fishing under the opt-out allocation.

(v) What will happen if Chinook salmon bycatch by vessels fishing under the opt-out allocation exceeds the amount allocated to the A season opt-out allocation?	NMFS will deduct from the B season opt-out allocation any Chinook salmon bycatch in the A season that exceeds the A season opt-out allocation.
(vi) What will happen if Chinook salmon bycatch by vessels fishing under the opt-out allocation is less than the amount allocated to the A season opt-out allocation?	If Chinook salmon bycatch by vessels fishing under the opt-out allocation in the A season is less than the amount allocated to the opt-out allocation in the A season, this amount of Chinook salmon will not be added to the B season opt-out allocation.
(vii) Is Chinook salmon PSC allocated to the opt-out allocation transferable?	No. Chinook salmon PSC allocated to the opt-out allocation is not transferable.

(6) **Chinook salmon bycatch performance standard.** If the total annual Chinook salmon bycatch by the members of a sector participating in an approved IPA is greater than that sector's annual threshold amount of Chinook salmon in any three of seven consecutive years, that sector will receive an allocation of Chinook salmon under the 47,591 PSC limit in all future years, except in low Chinook salmon abundance years when that sector will receive an allocation under the 33,318 Chinook salmon PSC limit.

(i) **Annual threshold amount.** Prior to each year, NMFS will calculate each sector's annual threshold amount. NMFS will post the annual threshold amount for each sector on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>). At the end of each year, NMFS will evaluate the Chinook salmon bycatch by all IPA participants in each sector against that sector's annual threshold amount.

(ii) **Calculation of the annual threshold amount.** A sector's annual threshold amount is the annual number of Chinook salmon that would be allocated to that sector under the 47,591 Chinook salmon PSC limit, as shown in the table in paragraph (f)(3)(iii)(C) of this section, or the 33,318 Chinook salmon PSC limit in low Chinook salmon abundance years, as shown in the table in paragraph (f)(3)(iii)(D) of this section. If any vessels in a sector do not participate in an approved IPA, NMFS will reduce that sector's annual threshold amount by the number of Chinook salmon associated with each vessel not participating in an approved IPA. If any CDQ groups do not participate in an approved IPA, NMFS will reduce the CDQ Program's annual threshold amount by the number of Chinook salmon associated with each CDQ group not participating in an approved IPA.

(iii) **Exceeding the performance standard.** If NMFS determines that a sector has exceeded its performance standard by exceeding its annual threshold amount in any three of seven consecutive years, NMFS will issue a notification in the FEDERAL REGISTER that the sector has exceeded its performance standard. In all subsequent years, NMFS will allocate to that sector

either the amount of Chinook salmon in the table in paragraph (f)(3)(iii)(C) of this section or, in low Chinook salmon abundance years, the amount of Chinook salmon in the table in paragraph (f)(3)(iii)(D) of this section. All members of the affected sector will fish under this lower PSC allocation regardless of whether a vessel or CDQ group within that sector participates in an approved IPA.

- (7) **Replacement vessels.** If an AFA-permitted vessel is no longer eligible to participate in the BS pollock fishery or if a vessel replaces a currently eligible vessel, NMFS will assign the portion and number of Chinook salmon associated with that vessel to the replacement vessel or distribute it among other eligible vessels in the sector based on the procedures in the law, regulation, or private contract that accomplishes the vessel removal or replacement action.
- (8) **Entities eligible to receive transferable Chinook salmon PSC allocations.**
 - (i) NMFS will issue transferable Chinook salmon PSC allocations to the following entities, if these entities meet all the applicable requirements of this section.
 - (A) **Inshore cooperatives.** NMFS will issue transferable Chinook salmon PSC allocations to the inshore cooperatives permitted annually under § 679.4(l)(6). The representative and agent for service of process (see definition at § 679.2) for an inshore cooperative is the cooperative representative identified in the application for an inshore cooperative fishing permit issued under § 679.4(l)(6), unless the inshore cooperative representative notifies NMFS in writing that a different person will act as its agent for service of process for purposes of this paragraph (f). An inshore cooperative is not required to submit an application under paragraph (f)(8)(ii) of this section to receive a transferable Chinook salmon PSC allocation.
 - (B) **CDQ groups.** NMFS will issue transferable Chinook salmon PSC allocations to the CDQ groups. The representative and agent for service of process for a CDQ group is the chief executive officer of the CDQ group, unless the chief executive officer notifies NMFS in writing that a different person will act as its agent for service of process. A CDQ group is not required to submit an application under paragraph (f)(8)(ii) of this section to receive a transferable Chinook salmon PSC allocation.
 - (C) **Entity representing the AFA catcher/processor sector.** NMFS will authorize only one entity to represent the catcher/processor sector for purposes of receiving and managing transferable Chinook salmon PSC allocations on behalf of the catcher/processors eligible to fish under transferable Chinook salmon PSC allocations. NMFS will issue transferable Chinook salmon allocations under the Chinook salmon PSC limit to the entity representing the catcher/processor sector if that entity represents all the owners of AFA-permitted vessels in this sector that are participants in an approved IPA.
 - (D) **Entity representing the AFA mothership sector.** NMFS will authorize only one entity to represent the mothership sector for purposes of receiving and managing transferable Chinook salmon PSC allocations on behalf of the vessels eligible to fish under transferable Chinook salmon PSC allocations. NMFS will issue transferable Chinook salmon allocations under the Chinook salmon PSC limit to an entity representing the mothership sector if that entity represents all the owners of AFA-permitted vessels in this sector that are participants in an approved IPA.

- (ii) **Request for approval as an entity eligible to receive transferable Chinook salmon PSC allocations.**

A representative of an entity representing the catcher/processor sector or the mothership sector may request approval by NMFS to receive transferable Chinook salmon PSC allocations on behalf of the members of the sector. The application must be submitted to NMFS at the address in paragraph (b)(6) of this section. A completed application consists of the application form and a contract, described below.

 - (A) **Application form.** The applicant must submit a paper copy of the application form with all information fields accurately filled in, including the affidavit affirming that each eligible vessel owner, from whom the applicant received written notification requesting to join the sector entity, has been allowed to join the sector entity subject to the same terms and conditions that have been agreed on by, and are applicable to, all other parties to the sector entity. The application form is available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>) or from NMFS at the address in paragraph (b)(6) of this section.
 - (B) **Contract.** A contract containing the following information must be attached to the completed application form:
 - (1) Information that documents that all vessel owners party to the contract agree that the entity, the entity's representative, and the entity's agent for service of process named in the application form represent them for purposes of receiving transferable Chinook salmon PSC allocations.
 - (2) A statement that the entity's representative and agent for service of process are authorized to act on behalf of the vessel owners party to the contract.
 - (3) Signatures, printed names, and date of signature for the owners of each AFA-permitted vessel identified in the application form.
 - (C) **Contract duration.** Once submitted, the contract attached to the application form is valid until amended or terminated by the parties to the contract.
 - (D) **Deadline.** An application form and contract must be received by NMFS no later than 1700 hours, A.L.T., on October 1 of the year prior to the year for which the Chinook salmon PSC allocations are effective.
 - (E) **Approval.** If more than one entity application form is submitted to NMFS, NMFS will approve the application form for the entity that represents the most eligible vessel owners in the sector.
 - (F) **Amendments to the sector entity.**
 - (1) An amendment to the sector entity contract, with no change in entity participants, may be submitted to NMFS at any time and is effective upon written notification of approval by NMFS to the entity representative. To amend a contract, the entity representative must submit a complete application, as described in paragraph (f)(8)(ii) of this section.
 - (2) To make additions or deletions to the vessel owners represented by the entity for the next year, the entity representative must submit a complete application, as described in paragraph (f)(8)(ii) of this section, by December 1.

(iii) **Entity representative.**

(A) The entity's representative must –

- (1) Act as the primary contact person for NMFS on issues relating to the operation of the entity;
- (2) Submit on behalf of the entity any applications required for the entity to receive a transferable Chinook salmon PSC allocation and to transfer some or all of that allocation to and from other entities eligible to receive transfers of Chinook salmon PSC allocations;
- (3) Ensure that an agent for service of process is designated by the entity; and
- (4) Ensure that NMFS is notified if a substitute agent for service of process is designated. Notification must include the name, address, and telephone number of the substitute agent in the event the previously designated agent is no longer capable of accepting service on behalf of the entity or its members within the 5-year period from the time the agent is identified in the application to NMFS under paragraph (f)(8)(ii) of this section.

(B) Any vessel owner that is a member of an inshore cooperative, or a member of the entity that represents the catcher/processor sector or the mothership sector, may authorize the entity representative to sign a proposed IPA submitted to NMFS, under paragraph (f)(12) of this section, on his or her behalf. This authorization must be included in the contract submitted to NMFS, under paragraph (f)(8)(ii)(B) of this section, for the sector-level entities and in the contract submitted annually to NMFS by inshore cooperatives under § 679.61(d).

(iv) **Agent for service of process.** The entity's agent for service of process must—

- (A) Be authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of an entity receiving a transferable allocation of Chinook salmon PSC or with respect to a CDQ group. Service on or notice to the entity's appointed agent constitutes service on or notice to all members of the entity.
- (B) Be capable of accepting service on behalf of the entity until December 31 of the year five years after the calendar year for which the entity notified the Regional Administrator of the identity of the agent.

(v) **Absent a catcher/processor sector or mothership sector entity.** If the catcher/processor sector or the mothership sector does not form an entity to receive a transferable allocation of Chinook salmon PSC, the sector will be managed by NMFS under a non-transferable allocation of Chinook salmon PSC under paragraph (f)(10) of this section.

(9) **Transfers of Chinook salmon PSC.**

- (i) A Chinook salmon PSC allocation issued to eligible entities under paragraph (f)(8)(i) of this section may be transferred to any other entity receiving a transferable allocation of Chinook salmon PSC by submitting to NMFS an application for transfer described in paragraph (f)(9)(iii) of this section. Transfers of Chinook salmon PSC allocations among eligible entities are subject to the following restrictions:

- (A) Entities receiving transferable allocations under the 60,000 PSC limit may only transfer to and from other entities receiving allocations under the 60,000 PSC limit.
 - (B) Entities receiving transferable allocations under the 45,000 PSC limit may only transfer to and from other entities receiving allocations under the 45,000 PSC limit.
 - (C) Entities receiving transferable allocations under the 47,591 PSC limit may only transfer to and from other entities receiving allocations under the 47,591 PSC limit.
 - (D) Entities receiving transferable allocations under the 33,318 PSC limit may only transfer to and from other entities receiving allocations under the 33,318 PSC limit.
 - (E) Chinook salmon PSC allocations may not be transferred between seasons.
- (ii) **Post-delivery transfers.** If the Chinook salmon bycatch by an entity exceeds its seasonal allocation, the entity may receive transfers of Chinook salmon PSC to cover overages for that season. An entity may conduct transfers to cover an overage that results from Chinook salmon bycatch from any fishing trip by a vessel fishing on behalf of that entity that was completed or is in progress at the time the entity's allocation is first exceeded. Under § 679.7(d)(5)(ii)(C)(2) and (k)(8)(v)(B), vessels fishing on behalf of an entity that has exceeded its Chinook salmon PSC allocation for a season may not start a new fishing trip for pollock in the BS on behalf of that same entity for the remainder of that season.
- (iii) **Application for transfer of Chinook salmon PSC allocation –**
- (A) **Completed application.** NMFS will process a request for transfer of Chinook salmon PSC provided that a paper or electronic application is completed, with all information fields accurately filled in. Application forms are available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>) or from NMFS at the address in paragraph (b)(6) of this section.
 - (B) **Certification of transferor –**
 - (1) **Non-electronic submittal.** The transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete. The transferor's designated representative must submit the paper application as indicated on the application.
 - (2) **Electronic submittal.** The transferor's designated entity representative must log onto the NMFS online services system and create a transfer request as indicated on the computer screen. By using the transferor's NMFS ID, password, and Transfer Key, and submitting the transfer request, the designated representative certifies that all information is true, correct, and complete.
 - (C) **Certification of transferee –**
 - (1) **Non-electronic submittal.** The transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete.
 - (2) **Electronic submittal.** The transferee's designated representative must log onto the NMFS online services system and accept the transfer request as indicated on the computer screen. By using the transferee's NMFS ID, password, and Transfer Key, the designated representative certifies that all information is true, correct, and complete.

- (D) **Deadline.** NMFS will not approve an application for transfer of Chinook salmon PSC after June 25 for the A season or after December 1 for the B season.

(10) **Non-transferable Chinook salmon PSC allocations.**

- (i) All vessels belonging to a sector that is ineligible to receive transferable allocations under paragraph (f)(8) of this section, any catcher vessels participating in an inshore open access fishery, and all vessels fishing under the opt-out allocation under paragraph (f)(5) of this section will fish under specific non-transferable Chinook salmon PSC allocations.
- (ii) All vessels fishing under a non-transferable Chinook salmon PSC allocation, including vessels fishing on behalf of a CDQ group, will be managed together by NMFS under that non-transferable allocation. If, during the fishing year, the Regional Administrator determines that a seasonal non-transferable Chinook salmon PSC allocation will be reached, NMFS will publish a notice in the FEDERAL REGISTER closing the BS to directed fishing for pollock by those vessels fishing under that non-transferable allocation for the remainder of the season or for the remainder of the year.
- (iii) For each non-transferable Chinook salmon PSC allocation, NMFS will deduct from the B season allocation any amount of Chinook salmon bycatch in the A season that exceeds the amount available under the A season allocation.

(11) **Rollover of unused A season allocation –**

- (i) **Rollovers of transferable allocations.** NMFS will add any Chinook salmon PSC allocation remaining at the end of the A season, after any transfers under paragraph (f)(9)(ii) of this section, to an entity's B season allocation.
- (ii) **Rollover of non-transferable allocations.** For a non-transferable allocation for the mothership sector, catcher/processor sector, or an inshore open access fishery, NMFS will add any Chinook salmon PSC remaining in that non-transferable allocation at the end of the A season to that B season non-transferable allocation.

(12) **Salmon bycatch incentive plan agreements (IPAs) –**

- (i) **Minimum participation requirements.** More than one IPA may be approved by NMFS. Each IPA must have participants that represent the following:
 - (A) **Minimum percent pollock.** Parties to an IPA must collectively represent at least 9 percent of the BS pollock quota.
 - (B) **Minimum number of unaffiliated AFA entities.** Parties to an IPA must represent any combination of two or more CDQ groups or corporations, partnerships, or individuals who own AFA-permitted vessels and are not affiliated, as affiliation is defined for purposes of AFA entities in § 679.2.
- (ii) **Membership in an IPA.**
 - (A) No vessel owner or CDQ group is required to join an IPA.
 - (B) For a vessel owner in the catcher/processor sector or mothership sector to join an IPA, that vessel owner must be a member of the entity representing that sector under paragraph (f)(8).

- (C) For a CDQ group to be a member of an IPA, the CDQ group must sign the IPA and list in that IPA each vessel harvesting BS pollock CDQ, on behalf of that CDQ group, that will participate in that IPA.
- (D) Once a member of an IPA, a vessel owner or CDQ group cannot withdraw from the IPA during a fishing year.
- (iii) **Request for approval of a proposed IPA.** The IPA representative must submit a proposed IPA to NMFS at the address in paragraph (b)(6) of this section. The proposed IPA must contain the following information:
 - (A) **Affidavit.** The IPA must include the affidavit affirming that each eligible vessel owner or CDQ group, from whom the IPA representative received written notification requesting to join the IPA, has been allowed to join the IPA subject to the same terms and conditions that have been agreed on by, and are applicable to, all other parties to the IPA.
 - (B) **Name of the IPA.**
 - (C) **Representative.** The IPA must include the name, telephone number, and email address of the IPA representative who submits the proposed IPA on behalf of the parties and who is responsible for submitting proposed amendments to the IPA and the annual report required under paragraph (f)(13) of this section.
 - (D) **Third party group.** The IPA must identify at least one third party group. Third party groups include any entities representing western Alaskans who depend on salmon and have an interest in salmon bycatch reduction but do not directly fish in a groundfish fishery.
 - (E) **Description of the incentive plan.** The IPA must contain a description of the following—
 - (1) The incentive(s) that will be implemented under the IPA for the operator of each vessel participating in the IPA to avoid Chinook salmon and chum salmon bycatch under any condition of pollock and Chinook salmon abundance in all years.
 - (2) How the incentive(s) to avoid chum salmon do not increase Chinook salmon bycatch.
 - (3) The rewards for avoiding Chinook salmon, penalties for failure to avoid Chinook salmon at the vessel level, or both.
 - (4) How the incentive measures in the IPA are expected to promote reductions in a vessel's Chinook salmon and chum salmon bycatch rates relative to what would have occurred in absence of the incentive program.
 - (5) How the incentive measures in the IPA promote Chinook salmon and chum salmon savings in any condition of pollock abundance or Chinook salmon abundance in a manner that is expected to influence operational decisions by vessel operators to avoid Chinook salmon and chum salmon.
 - (6) How the IPA ensures that the operator of each vessel governed by the IPA will manage that vessel's Chinook salmon bycatch to keep total bycatch below the performance standard described in paragraph (f)(6) of this section for the sector in which the vessel participates.

- (7) How the IPA ensures that the operator of each vessel governed by the IPA will manage that vessel's chum salmon bycatch to avoid areas and times where the chum salmon are likely to return to western Alaska.
 - (8) The rolling hot spot program for salmon bycatch avoidance that operates throughout the entire A season and B season and the agreement to provide notifications of closure areas and any violations of the rolling hot spot program to the third party group.
 - (9) The restrictions or penalties targeted at vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels fishing at the same time.
 - (10) The requirement for vessels to enter a fishery-wide in-season salmon PSC data sharing agreement.
 - (11) The requirement for the use of salmon excluder devices, with recognition of contingencies, from January 20 to March 31, and from September 1 until the end of the B season.
 - (12) The requirement that salmon savings credits are limited to a maximum of three years for IPAs with salmon savings credits.
 - (13) The restrictions or performance criteria used to ensure that Chinook salmon PSC rates in October are not significantly higher than those achieved in the preceding months.
- (F) **Compliance agreement.** The IPA must include a written statement that all parties to the IPA agree to comply with all provisions of the IPA.
- (G) **Signatures.** The names and signatures of the owner or representative for each vessel and CDQ group that is a party to the IPA. The representative of an inshore cooperative, or the representative of the entity formed to represent the AFA catcher/processor sector or the AFA mothership sector under paragraph (f)(8) of this section may sign a proposed IPA on behalf of all vessels that are members of that inshore cooperative or sector level entity.
- (iv) **Deadline and duration –**
- (A) **Deadline for proposed IPA.** A proposed IPA must be received by NMFS no later than 1700 hours, A.L.T., on October 1 of the year prior to the year for which the IPA is proposed to be effective.
 - (B) **Duration.** Once approved, an IPA is effective starting January 1 of the year following the year in which NMFS approves the IPA, unless the IPA is approved between January 1 and January 19, in which case the IPA is effective starting in the year in which it is approved. Once approved, an IPA is effective until December 31 of the first year in which it is effective or until December 31 of the year in which the IPA representative notifies NMFS in writing that the IPA is no longer in effect, whichever is later. An IPA may not expire mid-year. No party may join or leave an IPA once it is approved, except as allowed under paragraph (f)(12)(v)(C) of this section.
- (v) **NMFS review of a proposed IPA –**
- (A) **Approval.** An IPA will be approved by NMFS if it meets the following requirements:

- (1) Meets the minimum participation requirements in paragraph (f)(12)(i) of this section;
 - (2) Is submitted in compliance with the requirements of paragraphs (f)(12)(ii) and (iv) of this section; and
 - (3) Contains the information required in paragraph (f)(12)(iii) of this section.
- (B) **IPA identification number.** If approved, NMFS will assign an IPA identification number to the approved IPA. This number must be used by the IPA representative in amendments to the IPA.
- (C) **Amendments to an IPA.** Amendments to an approved IPA may be submitted to NMFS at any time and will be reviewed under the requirements of this paragraph (f)(12). An amendment to an approved IPA is effective upon written notification of approval by NMFS to the IPA representative.
- (D) **Disapproval.**
- (1) NMFS will disapprove a proposed IPA or a proposed amendment to an IPA for either of the following reasons:
 - (i) If the proposed IPA fails to meet any of the requirements of paragraphs (f)(12)(i) through (iii) of this section, or
 - (ii) If a proposed amendment to an IPA would cause the IPA to no longer be consistent with the requirements of paragraphs (f)(12)(i) through (iv) of this section.
 - (2) **Initial Administrative Determination (IAD).** If, in NMFS' review of the proposed IPA, NMFS identifies deficiencies in the proposed IPA that require disapproval of the proposed IPA, NMFS will notify the applicant in writing. The IPA representative will be provided one 30-day period to address, in writing, the deficiencies identified by NMFS. Additional information or a revised IPA received by NMFS after the expiration of the 30-day period specified by NMFS will not be considered for purposes of the review of the proposed IPA. NMFS will evaluate any additional information submitted by the applicant within the 30-day period. If the Regional Administrator determines that the additional information addresses deficiencies in the proposed IPA, the Regional Administrator will approve the proposed IPA under paragraphs (f)(12)(iv)(B) and (f)(12)(v)(A) of this section. However, if, after consideration of the original proposed IPA and any additional information submitted during the 30-day period, NMFS determines that the proposed IPA does not comply with the requirements of paragraph (f)(12) of this section, NMFS will issue an initial administrative determination (IAD) providing the reasons for disapproving the proposed IPA.
 - (3) **Administrative Appeals.** An IPA representative who receives an IAD disapproving a proposed IPA may appeal under the procedures set forth at § 679.43. If the IPA representative fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. If the IAD is appealed and the final agency action is a determination to approve the proposed IPA, then the IPA will be effective as described in paragraph (f)(12)(iv)(B) of this section.

(4) **Pending appeal.** While appeal of an IAD disapproving a proposed IPA is pending, proposed members of the IPA subject to the IAD that are not currently members of an approved IPA will fish under the opt-out allocation under paragraph (f)(5) of this section. If no other IPA has been approved by NMFS, NMFS will issue all sectors allocations of the 47,591 Chinook salmon PSC limit as described in paragraph (f)(3)(iii)(C) of this section, or, in low Chinook salmon abundance years, allocations of the 33,318 Chinook salmon PSC limit as described in paragraph (f)(3)(iii)(D) of this section.

(vi) **Public release of an IPA.** NMFS will make all proposed IPAs and all approved IPAs and the list of participants in each approved IPA available to the public on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov/>).

(13) **IPA Annual Report.** The representative of each approved IPA must submit a written annual report to the Council at the address specified in § 679.61(f). The Council will make the annual report available to the public.

(i) **Submission deadline.** The IPA Annual Report must be received by the Council no later than March 15.

(ii) **Information requirements.** The IPA Annual Report must contain the following information:

(A) A comprehensive description of the incentive measures, including the rolling hot spot program and salmon excluder use, in effect in the previous year;

(B) A description of how these incentive measures affected individual vessels;

(C) An evaluation of whether incentive measures were effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures, including the effectiveness of—

(1) Measures to ensure that chum salmon were avoided in areas and at times where chum salmon are likely to return to western Alaska;

(2) Restrictions or penalties that target vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels; and

(3) Restrictions or performance criteria used to ensure that Chinook PSC rates in October are not significantly higher than in previous months.

(D) A description of any amendments to the terms of the IPA that were approved by NMFS since the last annual report and the reasons that the amendments to the IPA were made.

(E) The sub-allocation to each participating vessel of the number of Chinook salmon PSC and amount of pollock (mt) at the start of each fishing season, and number of Chinook salmon PSC and amount of pollock (mt) caught at the end of each season.

(F) The following information on in-season transfer of Chinook salmon PSC and pollock among AFA cooperatives, entities eligible to receive Chinook salmon PSC allocations, or CDQ groups:

(1) Date of transfer;

(2) Name of transferor;